COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF INVESTIGATION & ENFORCEMENT

January 22, 2020

Via Electronic Filing
Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.
Citizens' Electric Company of Lewisburg, PA –
Supplement No. 132 to Tariff Electric – Pa. PUC No. 14
Docket No. R-2019-3008212
I&E Reply Brief

Dear Secretary Chiavetta,

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Reply Brief** in the above-captioned proceeding.

Copies are being served on active parties of record as evidenced in the attached Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

John M. Coogan
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 313920
(717) 783-6151
jcoogan@pa.gov

JMC/ac
Enclosure

cc: Honorable Steven K. Haas (*ALJ, PUC Harrisburg*)
Honorable Benjamin J. Myers (*ALJ, PUC Harrisburg*)
Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3008212
	:	
Citizens' Electric Company of Lewisburg	:	

REPLY BRIEF
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT

John M. Coogan
Prosecutor
PA Attorney I.D. No. 313920

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Dated: January 22, 2020

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I. INTRODUCTION

A. History of the Proceeding

On January 8, 2020, the Bureau of Investigation and Enforcement ("I&E") filed a Main Brief in this proceeding. The history of the proceeding was addressed in I&E's Main Brief.[1] On January 8, 2020, Citizens' Electric of Lewisburg ("Citizens'" or "Company"), the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA") also filed Main Briefs. The issues addressed in this I&E Reply Brief are limited to matters raised in the Company, OCA, and OSBA Main Briefs that relate to recommendations made in the I&E Main Brief.

B. Burden of Proof

I&E fully addressed the Burden of Proof in its Main Brief.[2]

II. SUMMARY OF ARGUMENT

Citizens' maintains it should be awarded a rate increase of $701,000.[3] However, the Company's Main Brief fails to demonstrate its rate increase proposal is just and reasonable. Specifically, Citizens' claim continues to include an inflated rate base; unjustified Operating and Maintenance expenses; an excessive rate of return; a flawed customer rate structure; and refusal to follow modest reporting recommendations. Therefore, I&E maintains Citizens' proposal should be adjusted so it only receives a rate increase of no more than $340,347[4] and its rate structure be adjusted as explained below and fully in I&E's Main Brief. Additionally,

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1 I&E Main Brief, pp. 1-2.

2 I&E Main Brief, pp. 2-3.

3 Citizens' Main Brief, p. 8.

4 Citizens' is clearly incorrect to state I&E's adjustments "would eliminate most of the proposed rate increase". Citizens' Main Brief, p. 9.

I&E continues to recommend the Commission order the Company to provide reports on actual capital expenditures, plant additions, and retirements for the FTY and FPFTY.

III. ISSUES RESOLVED AMONG THE PARTIES

The issues resolved among the parties are described in I&E's Main Brief.[5]

IV. RATE BASE

As explained in the Main Brief, I&E recommended adjustments to rate base for Construction Work in Progress ("CWIP"), Materials and Supplies, and Cash Working Capital ("CWC").[6] In its Main Brief, Citizens' confirms it removed its claim for CWIP and accepted I&E's method of using the most recent 13-month average of actual inventories for Materials and Supplies.[7] However, Citizens' incorrectly claims I&E did not dispute any other rate base component.[8] As explained in I&E's Main Brief, Citizens' Operating and Maintenance expense claims should be reduced by $106,623, which reduces the Company's CWC allowance by $13,328.[9]

Additionally, while I&E derived its position based off the Company's $12,847,336 rate base position in rebuttal testimony,[10] Citizens' increased its rate base claim by $209 to $12,847,545 in Main Brief. Citizens' does not explain this discrepancy from its rebuttal position, but I&E notes the $209 matches the dollar figure OCA recommended for Customer Deposits adjustment.[11] An adjustment for Customer Deposits should not be allowed because,

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5 I&E Main Brief, p. 8.

6 I&E Main Brief, pp. 9-11.

7 Citizens' Main Brief, pp. 13-14.

8 Citizens' Main Brief, p. 16.

9 I&E Main Brief, pp. 10-11. The Company does agree CWC should be recalculated if the Commission orders any changes to Citizens' claimed O&M expenses. Citizens' Main Brief, p. 24.

10 *See* I&E Main Brief, Table I; Citizens' Statement No. 1-R, Exhibit___(HSG-1R) Schedule C1 (R).

11 *See* Citizens' Main Brief, p. 24, Table I.

as explained in the Company's Main Brief,[12] Citizens' accepted this adjustment and reflected it in rebuttal testimony and should not be seeking an additional adjustment now. Even if further adjustment was warranted, I&E notes OCA recommended a $209 decrease, not increase to Citizens' rate base for Customer Deposits.[13]

V. REVENUES

A. Present Rate Revenues

I&E recommends that Citizens' present rate revenue be increased by $28,032, from $4,791,840 to $4,819,872, reflecting a net gain of 62 customers during the FTY and FPFTY.[14] I&E's recommendation is based on the three-year average of customer growth from December 2015 through December 2018 projected into the FTY and FPFTY, in addition to removing a one-time loss of 32 customers in the FTY.[15] While the Company admits I&E's recommendation is "mathematically correct", for the same reasons noted in I&E's Main Brief, Citizens' claims it will not actually experience this customer growth in the FPFTY.[16] The fact remains, the only independent documentation Citizens' provided to support its position is the most recent Union County Planning Commission Annual Report, which, as explained in I&E's Main Brief, did not specifically address Citizens' service territory and did not provide any data for the FPFTY. Citizens' claims a decline in residential subdivision connections in the FTY supports its position.[17] However, this is a limited sampling compared to overall change in customer count that I&E analyzed and the Company accepted as mathematically correct. Further, I&E witness Ethan Cline provided a

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12 *See* Citizens' Main Brief, pp. 14-15.

13 *See* OCA Statement No. 2, p. 6.

14 I&E Main Brief, pp. 11-13; I&E Exhibit No. 3-SR, Schedule 2.

15 *See* I&E Main Brief, pp. 11-13; I&E Statement No. 3, pp. 19-20.

16 *See* Citizens' Main Brief, p. 31. Citizens' projects it will gain a net of nine customers over two years. Id.

17 Citizens' Main Brief, pp. 31-32.

Union County Housing Study showing demand for housing in Citizens' territory will increase by at least 1,519 units by 2050.[18] Citizens' attempts to rebut this study by claiming need for additional units does not translate to new construction.[19] However, whether the units are new or old, additional occupancy clearly translates into additional customers for Citizens'.

I&E witness Cline also countered Citizens' claimed slowdown in growth by noting, as depicted in the Union County Housing Study, Bucknell's decision to require students move on-campus may have slowed customer growth.[20] Citizens' attempts to undermine this factor by noting one private landlord characterized the student housing as "substandard".[21] This assertion is beside the point. Bucknell's decision created "an excess of rental housing on the market in Lewisburg, a formerly tight market".[22] In other words, this one-time decision caused a temporary distortion to the rental market and there is no evidence it will occur again. In summary, I&E has demonstrated the Company's projected customer growth is unjustified, and therefore Citizens' present rate revenue should be increased by $28,032, reflecting a reasonable projection of customer growth.

B. Forfeited Discounts

I&E recommends that revenue from Forfeited Discounts be increased by $3,376.[23] However, Citizens' reiterates its claim that because Uncollectible Accounts expense is likely to increase in approximately the same amount as Forfeited Discounts, I&E's

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[18] *See* I&E Main Brief, p. 13. This increase is projected to occur between 2010 and 2050, indicating an average yearly increase of 38 customers (1,519 ÷ 40). I&E Exhibit No. 3-SR, Schedule 1, p. 32.

[19] Citizens' Main Brief, p. 33.

[20] I&E Statement No. 3-SR, pp. 9-10; I&E Exhibit No. 3-SR, Schedule 1, p. 33.

[21] Citizens' Main Brief, pp. 33-34.

[22] I&E Exhibit No. 3-SR, Schedule 1, p. 33.

[23] I&E Main Brief, p. 14.

recommendation should be rejected. Citizens' alternatively proposes if I&E's recommendation is accepted, the Commission should approve a corresponding expense increase for Uncollectible Accounts.[24]

Citizens' continues to ignore a simple premise to I&E's recommendation: Citizens' filing projects an increase to Uncollectible Accounts, but not to Forfeited Discounts. It is unreasonable to allow an increase to one and not the other. As Citizens' admits, both items are likely to increase concurrently.[25] However, revenues from Forfeited Discounts remain constant at $27,126 under HTY, FTY, and both present and proposed FPFTY rates,[26] but Uncollectible Accounts and Customer Records and Collection Expense are increased from their FTY figure by 3% to create the FPFTY claim.[27] Citizens' alternative recommendation to approve a corresponding expense increase for Uncollectible Accounts is also unreasonable. First, as a threshold matter, this recommendation is only raised for the first time in Main Brief. Doing so was procedurally improper as Commission regulations prohibit parties from introducing new evidence this late in the proceeding:

> A party will not be permitted to introduce evidence during a rebuttal phase which:
>
> (2) Should have been included in the party's case-in-chief.
>
> (3) Substantially varies from the party's case–in chief.[28]

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[24] Citizens' Main Brief, pp. 34-35.

[25] As I&E witness Ethan Cline explained, Forfeited Discounts is revenue from charges for customer late-payments, and because the amount of revenue generated by the Forfeited Discount rate is a function of revenue, it is reasonable to expect that Forfeited Discounts revenues will increase whenever a utility's base rates are increased. I&E Statement No. 3, pp. 22-23.

[26] Citizens' Exhibit_(HSG-1), Schedule B6, page 1 of 1.

[27] Citizens' Exhibit_(HSG-1), Schedule C1-1, page 4 of 4.

[28] 52 Pa. Code § 5.243(e).

Given that the Company raised this alternative recommendation for the first time in Main Brief and did not support it in either Direct or Rebuttal Testimony, I&E's expert witnesses have had no opportunity to evaluate the prudency of this position, and it should therefore be rejected. Notwithstanding, Citizens' alternative recommendation would solve a problem with Forfeited Discounts only to create a new one for Uncollectible Accounts. As mentioned, Citizens' <u>has already</u> increased its Uncollectible Accounts expense by 3% to attain its FPFTY claim. However, there has been <u>no</u> increase to revenue under Forfeited Discounts, whether by 3% or any other figure.[29] Citizens' alternative recommendation would simply result in a second, unjust and unreasonable increase to its Uncollectible Accounts expense. Therefore, I&E continues to recommend Citizens' claim for Forfeited Discounts revenue be increased by $3,376, and the Company should include revenue from Forfeited Discounts equal to the percentage of sales the Company is ultimately granted the opportunity to recover through rates by the Commission.

VI. EXPENSES

A. Total O&M Expenses

In Main Brief, the Company reiterates its position that the Commission should reject I&E and OCA's individual expense adjustment recommendations in favor of accepting the Company's full expense claim as stated in rebuttal testimony.[30] By contrast, Citizens' characterizes I&E and OCA's individual expense adjustments as a "mix and match" approach that "penaliz[es] to Company for its effective budget management."[31]

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[29] To be clear, I&E is not advocating for a 3% increase to Forfeited Discounts revenue. I&E witness Cline clearly explains the basis for his adjustment is the average actual Forfeited Discount revenues for 2016, 2017, and 2018 expressed as a percent of sales revenue. I&E Statement No. 3, p. 23; I&E Exhibit No. 3, Schedule 12.

[30] Citizens' Main Brief, pp. 35-47.

[31] Citizens' Main Brief, p. 41.

For the same reasons stated in Main Brief, I&E continues to oppose this deeply flawed method for determining Operating and Maintenance ("O&M") expenses.[32] Citizens' has the burden of proof in this proceeding and I&E has presented evidence that certain specific, individual expense claims for the FPFTY are unjust and unreasonable. Citizens' claims these individual expense adjustments should be rejected because "the Company is effectively managing to its budget".[33] However, to support its position, the Company primarily relies on vague and unquantifiable statements, e.g., "projections cannot account for all contingencies", "the adjustments for the FPFTY are conservative expense adjustments", and "the Company's FPFTY expense claims are reasonable, well-grounded, and are supported".[34] Such statements do not provide substantial evidence justifying the individual expense claims that I&E recommended adjustments to on specific, quantifiable bases. Additionally, they do not justify the wholesale revision to O&M expenses Citizens' provided in rebuttal testimony. To the extent Citizens' Main Brief actually addressed I&E's recommended adjustments, they will be discussed in the specific expense sections below.[35]

Citizens' claims it "has managed its expenses close to budget" and that Citizens' expenses are "tracking slightly higher than projected for 2019", and therefore, its expense claims should be approved in their entirety.[36] Citizens' further contends I&E does not dispute these general claims. This assertion is incorrect. I&E's recommendations pertain to whether individual expense claims in the FPFTY are just and reasonable. Reference to

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32 I&E Main Brief, pp. 15-17.

33 Citizens' Main Brief, p. 10.

34 Citizens' Main Brief, pp. 37-38.

35 Citizens' claims any resolution of an individual dispute "should be grossed up by the inflation adjustment". Citizens' Main Brief, p. 47. However, I&E did not dispute the Company's 3% inflation adjustment and therefore, any recommendations made by I&E should not be further inflated without specific justification.

36 Citizens' Main Brief, p. 47.

historical costs are only relevant as to whether they justify expense claims for the FPFTY. As explained in Main Brief, I&E recommended individual expense adjustments, taking into account the Company's rebuttal position, but only as it related to claims analyzed in direct testimony.[37] As explained in I&E's Main Brief, to the extent the Company's position now updates expense claims, whether upwards or downwards, not subject of non-company parties' direct testimony, the Commission should reject them as a prohibited attempt to raise late-brought claims.[38]

Citizens' also asks the Commission to not weigh the prudency of managerial discretion based on information discovered after the fact.[39] It is unclear to I&E how this statement relates to I&E's recommendations or supports Citizens' position.[40] Nonetheless, I&E contends its position regarding expenses is not based on "information discovered after the fact", but instead is largely based on historical and projected analysis of expense trends as is appropriate for each individual expense adjustment at issue as it relates to the FPFTY. Additionally, the Commonwealth Court just recently held "[t]he Commission does have the authority, pursuant to [66 Pa. C.S. § 315(e)] to make after-the-fact adjustments and to require

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37 I&E Main Brief, p. 16.

38 I&E Main Brief, pp. 15-17.

39 Citizens' Main Brief, pp. 35-36.

40 If Citizens' means to infer I&E is interfering with managerial discretion, I&E's expense adjustments are based on trends and projections to reflect just and reasonable rates, not claimed superior knowledge of day-to-day operations, and therefore clearly do not constitute an attempt to micromanage or act as a super board of directors. *See Bell Tel. Co. of Pa. v. Driscoll,* 21 A.2d 912 (Pa. 1941); *Metropolitan Edison Co. v. Pa. P.U.C.,* 437 A.2d 76 (Pa. Cmwlth. 1981); *Pa. P.U.C. v. Philadelphia Electric Co.,* 501 Pa. 153 (Pa. 1983). Additionally, the cases Citizens' relies upon to support its position are inapposite to the present case. In *Pa. P.U.C. v. Philadelphia Suburban Water Company*, the Commission denied OCA's recommendation that Philadelphia Suburban Water Company not be allowed to receive a return on meter registers that became obsolete soon after their purchase. 1991 Pa. PUC LEXIS 206, pp. 6-10 (Pa. P.U.C. 1991). Similarly, in *Pa. P.U.C. v. Duquesne Light Co.*, the Commission's discussion of the "prudence standard" was in the context of whether already incurred costs should be allowed into a rate claim. 63 Pa. P.U.C. 337 (Pa. P.U.C. 1987). I&E is not recommending disallowance of a past cost, but refinement to cost *projections* (i.e., the FPFTY) based on past experience.

a utility to support its prior projections in a subsequent rate case."[41] Parties can clearly rely on a company's experience in informing its positions in subsequent rate filings.

More appropriately, Citizens' states "[t]he relevant question in a base rate proceeding is whether the proposed expenses are reasonable and appropriate for furnishing of service to customers."[42] As explained in Main Brief and further below, I&E has addressed a number of individual expenses that are not reasonable or appropriate for furnishing service to customers.[43] In summary, for the reasons explained above and in I&E's Main Brief, the Commission should reject the Company's attempt to wholesale discredit non-company parties' expense claim recommendations.

B. Operations Supervision and Engineering Expense

I&E recommends a reduction of $21,644 to Citizens' claim of $144,762 for Operations Supervision and Engineering Expense.[44] Although Citizens' did not specifically rebut I&E's direct testimony on this expense, the Company now asserts in Main Brief its claim is reasonable because Citizens' will have retirements in the coming years.[45] I&E objects to Citizens' justification for this expense for several reasons. First, it is inappropriate for Citizens' to ignore I&E witness D.C. Patel's direct testimony recommendation regarding this expense, only to address it for the first time in Main Brief. I&E has been deprived of its ability to present expert witness testimony on the Company's new rationale for this claim. Second, the witness testimony Citizens' cites to in Main Brief to justify this claim does not expressly relate to this expense claim. Therefore, there is no justification to rely on this

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41 *McCloskey v. Pa. P.U.C.*, 2020 WL 215931 (Pa. Cmwlth. 2020).

42 Citizens' Main Brief, p. 36.

43 I&E Main Brief, pp. 18-25.

44 I&E Main Brief, p. 18.

45 Citizens' Main Brief, p. 51.

testimony. To the contrary, I&E witness Patel specifically justified his recommendation because neither the historical nor annualized FTY experience for this expense supported this claim.[46] If there was any justification relating Citizens' testimony to I&E's direct testimony analysis, the Company should have presented that analysis in rebuttal testimony. Because it did not, the Commission should approve I&E's recommended downwards adjustment to this claim by $21,644.

C. Miscellaneous Distribution Expense

I&E recommends a reduction of $9,218 to the Company's claim of $275,814 for Miscellaneous Distribution Expense.[47] Although Citizens' did not specifically rebut this recommendation, it now recommends the full amount be approved.[48] As discussed above, it is inappropriate for Citizens' to ignore I&E witness Patel's direct testimony recommendation regarding this expense, only to address it for the first time in Main Brief. Nonetheless, Citizens' has provided no additional basis to rebut I&E's recommended adjustment. As explained by I&E witness Patel, Miscellaneous Distribution Expense includes Employee Salaries and Wages, Overhead (Employee Benefits), Transportation, Material, Safety Material, Travel, and Retiree Health Expenses.[49] I&E witness Patel's recommendation was based only on the historical experience of the Material expense subcategory as follows:[50]

2016	2017	2018	FTY	FPFTY
$26,154	$23,363	$20,652	$29,000	$29,870

46 I&E Statement No. 1, pp. 9-11. I&E witness Patel's recommendation reflects annualized FTY expense plus a 3% inflation adder. Id., p. 11.

47 I&E Main Brief, pp. 18-19.

48 Citizens' Main Brief, pp. 51-52.

49 I&E Statement No. 1, pp. 11-12; I&E Exhibit No. 1 (Proprietary), Schedule 4.

50 I&E Statement No. 1, pp. 13; I&E Exhibit No. 1 (Proprietary), Schedule 4.

As opined by I&E witness Patel, it is apparent Citizens' experienced a declining trend in Material expense from 2016 through 2018. However, the Company projected a significant increase in Material expense of $8,348 (40.42% increase) in the FTY over 2018 expense and further a 3% increase in the FPFTY. The Company did not provide any detailed explanation or support for the significant projected increase in the FTY expense. Additionally, the Company's historic expense level does not support the FPFTY Material expense claim. Citizens' Main Brief only states its overall projection for Miscellaneous Distribution Expense but does not address I&E's specific recommendation regarding the Material expense subcategory. Therefore, I&E continues to recommend a reduction of $9,218 to FPFTY Material expense based on the HTY Material expense.

D. Customer Records and Collection Expense

I&E recommends a reduction of $13,650 to Citizens' claim of $469,626 for Customer Records and Collection Expense.[51] Citizens' states it accepts I&E's recommendation if the Commission accepts O&M adjustment recommendation on an individual basis.[52] For the reasons discussed above and in I&E's Main Brief regarding Total O&M Expenses, the Commission should accept adjustment recommendations on an individual basis, including I&E's recommendation regarding Customer Records and Collection Expense.

E. Maintenance of Overhead Lines

I&E recommends a reduction of $9,564 to Citizens' claim of $456,019 for Maintenance of Overhead Lines Expense.[53] Citizens' generally points to the increasing need for vegetation management in its territory and increased cost of contractors to justify this

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[51] I&E Main Brief, pp. 19-20.

[52] Citizens' Main Brief, p. 52.

[53] I&E Main Brief, pp. 20-21.

expense.[54] However, this expense includes multiple subcategories, including Labor, Overhead, Transportation, and Material, as well as Contractor.[55] It is important to note I&E did not dispute the increase to Contractor or any other subcategory of cost for the FTY and FPFTY. What I&E did dispute was the increased claim for Material, which has fluctuated in recent years.[56] Although Citizens' witness John Kelchner claims Material and Contractor costs are "one and the same",[57] there is no clear substantiation or breakdown of Material expense to verify this claim.[58] Therefore, because Citizens' has not met its burden of proof demonstrating its claim for Material expense is justified, I&E continues to recommend a $9,564 downwards adjustment to Citizens' Maintenance of Overhead Lines claim.

F. Outside Services

I&E recommends a reduction of $25,380 to Citizens' claim of $81,370 for Outside Services Expense, for a total of $55,990.[59] Citizens' claims more recent FTY figures demonstrate a total expense of $64,787 for the FPFTY is justified.[60] Although the Company also claims its original claim of $81,370 is reasonable, in the alternative, the Company asks the Commission to accept a claim for $64,787. I&E witness Patel demonstrated claims for either $81,370 or $64,787 are both unreasonable. Specifically, the Company's historic outside services for 2016, 2017, and 2018 (after adjusting the one-time legal expense) were

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54 Citizens' Main Brief, pp. 47-48.

55 *See* I&E Exhibit No. 1 (Proprietary), Schedule 6.

56 I&E Main Brief, pp. 20-21.

57 *See* Citizens' Main Brief, p. 49.

58 Presumably, if Material was simply a further subset of the Contractor subcategory, there would be no reason to include Material as a separate subcategory.

59 I&E Main Brief, pp. 21-22.

60 Citizens' Main Brief, pp. 52-53.

$53,612, $52,217, and $55,762.[61] Because I&E's recommendation aligns with the Company's most recent three years' historic outside service expense, the Commission should accept I&E's downward adjustment of $25,380.

G. Rate Case Expense

I&E recommends a 48-month normalization period for Rate Case Expense, resulting in an annual allowance of $81,500 (($326,000 ÷ 48 months) x 12 months), which is a reduction of $27,167 ($108,667 - $81,500) to the Company's claim.[62] Citizens' points to the Commission's decision in *Pa. P.U.C. v. UGI Utilities, Inc. – Electric Division*[63] to support its normalization period for Rate Case Expense.[64] Comparison to the Commission's decision in *UGI Utilities, Inc. – Electric Division* is inappropriate for several reasons. First, as Citizens' admits, prior to its 2018 rate case filing, UGI Electric had not filed a base rate case for 22 years. By contrast, Citizens' last four rate cases were filed within 34, 75, and 37 months of each other.[65] Clearly, Citizens' has a much more frequent filing history than UGI Electric. Therefore, it is much more reasonable to rely on a historical filing frequency for Citizens' than UGI Electric.

Second, Citizens' has not provided the same level of specificity regarding capital expenses that the Commission found persuasive in granting UGI Electric deviation from the general rule that historic frequency be used to determine rate case expense normalization period. The Commission found that UGI Electric's reference to $8 million in annual

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[61] The figure for 2018 includes a $35,988 downward adjustment for a one-time legal expense ($91,750-$35,988). I&E Statement No. 1, pp. 19-20. $35,988 reflects the change in legal expense from 2017 to 2018. I&E Exhibit No. 1 (Proprietary), Schedule 7.

[62] I&E Main Brief, pp. 23-25.

[63] Docket No. R-2017-2640058 (Order Entered October 25, 2018) ("*UGI Utilities, Inc. – Electric Division*").

[64] Citizens' Main Brief, pp. 55-56.

[65] *See* I&E Main Brief, p. 26.

spending for capital projects following the FPFTY would cause a $3 million shortfall at the end of a three-year period.[66] By contrast, Citizens' has provided no quantifiable or otherwise reliable bases or projections why its proposed normalization period is appropriate. As explained in I&E's Main Brief, Citizens' witnesses' specific bases for a shorter normalization period reflect routine or speculative costs.[67] I&E therefore continues to recommend the Commission approve normalization of Citizens' Rate Case Expense with reference to its historical filing frequency only, i.e., a 48-month average, resulting in a $27,167 reduction to Rate Case Expense.

VII. FAIR RATE OF RETURN

A. Return on Common Equity – Methodologies

Citizens' correctly states the primary dispute regarding rate of return is return on equity ("ROE").[68] Unlike I&E, which primarily used the Discounted Cash-Flow ("DCF") model, Citizens' analyzed multiple ROE models to develop an ROE recommendation.[69] Although Citizens' correctly notes "the Commission has primarily relied on the [DCF] to set ROE", to support its use of multiple models and discount primary reliance on the DCF, Citizens' states "the Commission has also observed [in *UGI Utilities, Inc. – Electric Division*] that DCF-only results may understate the appropriate ROE."[70] However, in its full

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66 *UGI Utilities, Inc. – Electric Division*, p. 60.

67 I&E Main Brief, pp. 24-25.

68 Citizens' Main Brief, p. 60.

69 Citizens' Main Brief, p. 60. Citizens' witness Dylan D'Ascendis used the DCF, Risk Premium ("RP"), and Capital Asset Pricing Model ("CAPM") methods, as well as comparison to non-price regulated companies. *See* Citizens' Main Brief, pp. 62-63.

70 Citizens' Main Brief, p. 60 (citing *UGI Utilities, Inc. – Electric Division*, p. 105).

context, the Commission stated:[71]

> *[W]here evidence based on other cost of equity methods indicates that* the DCF-only results may understate the utility's current cost of equity capital, we will consider those other methods, to some degree, in evaluating the appropriate range of reasonableness for our equity return determination

The Commission did not hold that the DCF method understates ROE or that multiple methods should be used to determine ROE, but only commented that it will look to other methods if the DCF appears understated by comparison. In this case, I&E justified its DCF analysis by comparison to the Capital Asset Pricing Model ("CAPM").[72] I&E's analysis is consistent with the Commission's decision in *UGI Utilities, Inc. – Electric Division* that the cost of equity should "primarily be based upon the use of the DCF methodology and that the results of the CAPM analysis should be used as a comparison to the DCF results".[73] As explained in I&E's Main Brief, I&E calculated a CAPM ROE of 7.59%.[74] Therefore, as endorsed by the Commission, I&E's CAPM analysis confirms the reasonableness of I&E's 8.10% DCF calculation. Additionally, in *UGI Utilities, Inc. – Electric Division*, the Commission rejected the other models used by Citizens' in developing its recommended ROE, i.e., the Risk Premium ("RP") method and Comparable Earnings ("CE") method.[75]

Citizens' criticizes I&E for "maintain[ing] an unreasonably narrow focus on replying primarily on the DCF and considering only the CAPM as a check".[76] However, as explained

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71 *UGI Utilities, Inc. – Electric Division*, p. 105 (emphasis added).

72 *See* I&E Main Brief, pp. 32-35.

73 *UGI Utilities, Inc. – Electric Division*, p. 104; *See also* I&E Main Brief, p. 30, fn. 89 (citation of Commission decisions validating use of the DCF as the primary methodology to determine ROE).

74 I&E Main Brief, pp. 32-33.

75 *UGI Utilities, Inc. – Electric Division*, p. 105.

76 Citizens' Main Brief, p. 78.

above, this methodology has been expressly endorsed by the Commission. Instead, Citizens' Main Brief reiterates the methods Company witness Dylan D'Ascendis used to develop his DCF, CAPM, RP and CE positions.[77] As explained above, and fully in I&E's Main Brief, use of these rejected RP and CE methodologies,[78] in addition to unorthodox modifications to DCF and CAPM analyses,[79] should be disregarded as inaccurate, unreliable, and inconsistent with Commission precedent.[80]

Abandoning a methodological ROE analysis completely, Citizens' points to non-jurisdictional and irrelevant metrics for other companies' ROEs to support its claim. First, Citizens' claims I&E's recommended ROE is below any major electric utility followed by Regulatory Research Associates since at least 1980.[81] This statement is completely unsupported by any evidence in the record. Citizens' witness D'Ascendis simply cites "Source of Information: Regulatory Research Associates" for this claim.[82] There is no specific cite or data attached to Citizens' witness D'Ascendis's testimony. Second, Citizens'

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77 Citizens' Main Brief, pp. 62-72. Citizens' goes on to criticize I&E for not adopting its various methodologies, which, as explained in I&E's Main Brief, were rejected. Citizens' Main Brief, pp. 73-85; *See* I&E Main Brief, pp. 34-47.

78 *See* I&E Main Brief, pp. 37-43. Citizens' incorrectly asserts the Commission's decision in *UGI Utilities, Inc. – Electric Division* validated use of a Comparable Earnings analysis. Citizens' Main Brief, pp. 83-84. To the contrary, the Commission expressly rejected UGI Electric's use of the CE method. *UGI Utilities, Inc. – Electric Division*, p. 105.

79 Specifically, use of an inappropriate risk-free rate and ECAPM for the CAPM analysis, and reference to market-to-book ratios with regard to the DCF analysis. *See* I&E Main Brief, pp. 43-47. Additionally, I&E objected to the proxy group Citizens' used for its DCF analysis. *See* I&E Main Brief, pp. 35-37.

80 The Company again claims the Commission incorporated multiple models into its authorized ROEs in *Pa. P.U.C. v. Emporium Water Company*, Docket No. R-2014-2402324 (Order Entered January 28, 2015) ("*Emporium Water*") and *Pa. P.U.C. v. The Columbia Water Company*, Docket No. R-2013-2360798 (Order Entered January 23, 2014) ("*Columbia Water*"). *See* Citizens' Main Brief, p. 74. As explained in I&E's Main Brief, in *Columbia Water*, the Commission specifically states that it used the DCF method as the foundation in determining the cost of equity, and in *Emporium Water*, the Commission simply summarized the recommendations presented by OCA, I&E, and Emporium Water and did not comment on which model(s) it relied on for its ROE determination. I&E Main Brief, p. 40.

81 Citizens' Main Brief, p. 61.

82 Citizens' Statement No. 2-R, p. 5.

cites past higher ROE awarded to various Commission regulated companies.[83] However, Citizens' has provided absolutely no analysis why these ROEs are germane to the Company's ROE claims here. As Citizens' recognizes, "market conditions may change"[84] and comparison to ROEs awarded to companies a decade ago should not be allowed to carry weight without any analysis. Although UGI Electric was awarded a 9.85% ROE in 2018, this amount also included a 1.20% downward adjustment to remove a size adjustment completely and a five basis points performance factor adjustment. If a similar adjustment was made to the Company's ROE claim, Citizens' would only be awarded a 9.10% return on equity (10.30% - 1.20%).

Last, Citizens' cites the Commission-approved 9.55% Distribution System Improvement Charge ("DSIC") ROE for electric utilities as a reason why I&E's recommended return on equity is deficient.[85] I&E avers comparison to the Commission's standard DSIC ROE for electric utilities is inappropriate for several reasons. First, citation to this standard is completely divorced from any of the various analyses parties have used in developing their respective positions. The Commission should not abandon parties' analyses just to look at a generic standard that has no relevance to the specific facts in this record. Second, the 9.55% ROE is developed in a different context than Citizens' ROE in this proceeding. As Citizens' witness D'Ascendis correctly recognizes, DSIC is only designed to recover costs on specifically defined capital improvements between rate cases.[86] The Commission's most recently performed Quarterly Earnings Summary Report states the

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[83] Citizens' Main Brief, pp. 77-78. Specifically, 11% to Aqua Pennsylvania, Inc. in 2008; 10.40% to PPL Electric Utilities Corporation in 2011; and 9.85% to UGI Electric in 2018.

[84] Citizens' Main Brief, p. 78.

[85] Citizens' Main Brief, p. 61.

[86] Tr. 57-59.

current market indicated ROE ranges between 7.05% and 9.56% for electric utilities.[87] I&E suggests the Commission sets the DSIC rate at the very highest level of market indicated returns to incentivize utilities to undertake critical infrastructure projects.[88] By contrast, simply awarding the DSIC rate at the high end of the Commission's DCF analysis[89] in a base rate proceeding would provide an elevated ROE to all elements of the rate base, not just critical infrastructure projects.[90] Therefore, utilities should not simply expect the DSIC rate to serve as a substitute for a base rate ROE analysis. Further, as PUC Commissioner Andrew Place recently stated regarding the Quarterly Earnings Report of Jurisdictional Utilities,[91] the standard DSIC ROE for electric utilities suffers flaws. Specifically, although the DSIC ROE for electric utilities is 9.55%, the DCF analysis for electric utilities only indicates a ROE of 8.31%, with one standard deviation of 7.05% to 9.56%.[92] A 9.55% ROE is at the very upper end of the Commission's DCF analysis, and Commissioner Place recommended its adjustment downwards. Additionally, the CAPM analysis only produces a 7.74% ROE.[93] Commissioner Place also cites a decline to national rate case ROEs and changes to DCF-based ROEs from the Commission's previous quarterly earnings reports to indicate the Commission's DSIC rate for electric utilities is overstated. In summary, Citizens' reliance

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[87] *Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities for the Year Ended June 30, 2019*, Docket No. M-2019-3013392, p. 14 (November 14, 2019) ("Quarterly Earnings Summary Report").

[88] 66 Pa. C.S. §§ 1350, et seq.

[89] The Quarterly Earnings Summary Report explains "[t]he Commission consistently uses the DCF model to determine the appropriate cost of equity for utilities". Quarterly Earnings Summary Report, p. 16.

[90] Relatedly, although the Public Utility Code mandates a utility's DSIC cost of equity match its litigated cost of equity within a two-year period, the reverse is not true. 66 Pa. C.S. § 1357(b)(2). In a base rate proceeding, a company can demonstrate why its proposed ROE is justified, including by reference to any infrastructure projects. I&E avers Citizens' has not provided any particular evidence why any of its infrastructure projects justify an elevated ROE.

[91] *Statement of Commissioner Andrew G. Place*, Docket No. M-2019-3013392 (November 14, 2019) ("Commissioner Place Statement").

[92] Commissioner Place Statement, p. 1.

[93] Commissioner Place Statement, p. 1.

on the Commission's DSIC rate to support its separate ROE analysis should be disregarded as irrelevant and unreliable, and the Commission should accept I&E's specific DCF analysis, as checked by a CAPM analysis.

B. Return on Common Equity – Equity Adjustments

1. Size Adjustment

Citizens' maintains the Commission "must" include a size adjustment of 100 basis points and claims a body of evidence supports its position.[94] To support its position, Citizens' cites one Commission Order from 2007 where a size adjustment was allowed.[95] Citizens' then reiterates its position, including reference to non-utility specific technical literature.[96] However, as explained in I&E's Main Brief, in *UGI Utilities, Inc. – Electric Division* the Commission recently rejected use of technical literature not specific to the regulated utility industry to support a size adjustment.[97] Additionally, I&E presented technical literature demonstrating a size effect for utilities does not exist,[98] and Citizens' did not provided sufficient evidence to the contrary. As explained in I&E's Main Brief, the study Citizens' presented to rebut I&E's technical literature is speculative and, at best, applicable only to water utilities. Citizens' witness D'Ascendis also admits his own study has limited explanatory power.[99] Therefore, for the reasons stated herein and in I&E's Main Brief, the Commission should find Citizens' has not justified its claim for a size adjustment to its return on equity.

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94 Citizens' Main Brief, p. 93.

95 Citizens' Main Brief, p. 93 (citing *Pa. P.U.C. v. PPL Gas Utilities Corp.*, Docket No. R-00061398, p. 105 (Order Entered February 8, 2007)). In this one proceeding, the Commission awarded a 31 basis point upwards adjustment to PPL Gas Utilities Corporation's ROE. Id., pp. 107-108.

96 Citizens' Main Brief, pp. 94-96.

97 *UGI Utilities, Inc. – Electric Division*, p. 100.

98 *See* I&E Main Brief, p. 49.

99 *See* I&E Main Brief pp. 49-50.

2. Management Performance

Citizens' maintains its management performance merits a 25 basis point increase to return on equity.[100] As explained in I&E's Main Brief, Citizens' should not be awarded additional basis points simply for performing what is required to provide adequate, efficient, safe, and reasonable service.[101] Therefore, I&E continues to recommend a 25 basis point performance factor increase be disallowed.

VIII. TAXES

As explained in I&E's Main Brief, I&E's various recommendations have a flow-through impact on the Company's taxes for the FPFTY as depicted in Table I attached therein.

IX. CUSTOMER RATE STRUCTURE

A. Allocated Cost of Service Study

I&E makes various recommendations based on Citizens' cost of service study as explained in the Customer Rate Structure section of I&E's Main Brief.

B. Revenue Allocation

Based on Citizens' cost of service study, I&E recommends rate class GLP-3 be allocated neither an increase nor decrease under proposed rates. Instead, the proposed reduction to GLP-3 should be reallocated to the OL and GLP-1 rate classes.[102] Citizens' maintains a rate decrease for class GLP-3 is appropriate, citing the Commission's decision in

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[100] Citizens' Main Brief, pp. 89-92.

[101] I&E Main Brief, p. 50-51.

[102] *See* I&E Main Brief, pp. 53-59. Of the $35,816 reallocated from the GLP-3 rate class, I&E originally recommended (1) the first $10,500 be allocated to the OL class and (2) the remaining $25,316 be applied to the GLP-1 rate class. Id., p. 53. At a separate point in Main Brief, I&E inadvertently, but mistakenly, stated that its recommendation was to first allocate $717, instead of $10,500, to the OL class. I&E Main Brief, p. 55. However, neither position represents I&E's current position because, as explained in Main Brief, I&E accepted OSBA's recommendation that the rate class with the higher relative rate of return should receive more rate relief. I&E thereby modified its original recommendation to provide greater rate relief to the GLP-1 rate class. I&E Main Brief, pp. 58-59.

UGI Utilities, Inc. – Electric Division granting a rate decrease to a rate class.[103] However, I&E contends that Citizens' misinterprets the significance of the Commission granting a rate decrease in the *UGI Utilities, Inc. – Electric Division*. First, neither the Commission nor the ALJs' decision explicitly discussed the appropriateness of a rate decrease.[104] Rather, both more generally rejected OCA's alternative cost of service study, which happened to include no rate decrease for any party.[105] Second, only OCA recommended rejection of a rate decrease in *UGI Utilities, Inc. – Electric Division*. Here, as the Company correctly notes, I&E, OCA, and OSBA all oppose a decrease to rate class GLP-3.[106]

Citizens' also cites *Lloyd v. Pa. P.U.C.* to support its revenue allocation as most reasonable and consistent with precedent.[107] I&E does not dispute Citizens' contention that *Lloyd* confirmed cost of service as the "polestar" of utility ratemaking. However, Citizens' simply cites *Lloyd* without any interpretation of its relevance to I&E's revenue allocation recommendation or why the Company's proposal is more reasonable. Consistent with *Lloyd*, I&E's recommendation still moves rate class GLP-3 closer to its cost of service.

Change in Relative Rate of Return (I&E Ex. No. 3, Sch. 14, lines 8, 34-35)			
Rate Class	Present Rate	Company As-Filed	I&E Recommended
GLP-3	4.81	2.12	2.28
OL	2.07	1.32	1.00
GLP-1	1.87	1.43	1.33

103 Citizens' Main Brief, p. 107.

104 *UGI Utilities, Inc. – Electric Division*, pp. 164-166; *Pa. P.U.C. v. UGI Utilities, Inc. – Electric Division,* Docket No. R-2017-2640058, Recommended Decision, pp. 120-122 (August 20, 2018).

105 Id.

106 Citizens' Main Brief, p. 106.

107 Citizens' Main Brief, pp. 106-107 (citing *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010, 1015 (Pa. Cmwlth. 2006) ("*Lloyd*")).

However, I&E's recommendation achieves the additional goal of assigning further rate relief to rate classes OL and GLP-1, both which have a relative rate of return above 1.0.[108] OCA maintains its position that the rate decrease should be proportionately distributed to classes receiving an increase greater than or equal to 1.5 times the system average increase.[109] I&E avers its proposal is more reasonable because it assigns rate relief solely to classes whose relative rate of return are above 1.0, i.e., classes that are generating revenue greater than its cost to serve. OSBA maintains its position that rate classes OL and GLP-1 should receive additional rate relief from an additional rate increase to the RS and SH classes.[110] However, rate classes RS and SH are already posed to experience two of the three highest percent rate increases (i.e., 25.2% and 24.2%, respectively), and therefore, a further increase is not reasonable.[111] As explained in Main Brief, I&E recommends its revenue allocation proposal be approved by the Commission.

C. Rate Design

Citizens' claims its proposal to insert a portion of demand costs into the customer charge is a form of "alternative ratemaking" consistent with Act 58 and the Commission's Final Policy Statement regarding alternative ratemaking.[112] For the reasons explained in I&E's Main Brief, simply characterizing Citizens' proposal as "alternative ratemaking" is not an adequate basis for approval. To the contrary, I&E explained how Citizens' proposal would

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[108] As explained in I&E's Main Brief, if a rate class has a relative rate of return of greater than 1.0, that class is generating revenue greater than its cost to serve. I&E Main Brief, p. 56.

[109] OCA Main Brief, p. 80.

[110] OSBA Main Brief, p. 8.

[111] *See* I&E Main Brief, p. 53.

[112] Citizens' Main Brief, pp. 108-109.

violate principles of efficiency, cost causation, and customer protection; principles that continue to exist under alternative ratemaking.[113]

Citizens' also generally claims adding a portion of demand costs to the customer charge is reasonable because it reflects cost of service principles. Additionally, Citizens' claims, as designed, the added charges are minimal.[114] I&E avers Citizens' rationale is inadequate for two reasons. First, charging a customer for a cost it may not create clearly does not comply with cost of service principles. Second, the Company already has a mechanism to recover demand costs: *the demand charge*. The Company's claim that its proposal only shifts a minimum of demands costs to customer charges ignores the premise that these costs should be recovered through demand charges, not the customer charge. If the Company believes its demand charge is deficient, it should seek recourse through adjusting the demand charge, not simply increasing the customer charge. As explained thoroughly in I&E's Main Brief, the customer charge is not the appropriate avenue to recoup demand costs.[115] Accordingly, I&E maintains its position that the Commission should reject Citizens' proposal to assign a portion of demand charge to customer charge, and should instead adopt I&E's recommendations, which are in accordance with the Company's cost of service study.

D. Scale Back

I&E and Citizens' agree that, if the Commission approves a revenue requirement less than requested, rates should be proportionally scaled back based on the cost of service study.[116] However, the Company claims its scale back proposal is most reasonable,

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[113] I&E Main Brief, pp. 62-64.

[114] Citizens' Main Brief, pp 109-111.

[115] I&E Main Brief, pp. 59-62.

[116] I&E Main Brief, p. 65; Citizens' Main Brief, p. 115.

reiterating its support that a scale back should include classes receiving a rate decrease.[117] I&E maintains that, for the same reasons explained why rate class GLP-3 should not receive a revenue decrease, only rate classes receiving a proposed increase should be included in a scale back. However, as explained in Main Brief, I&E agrees with OSBA that a proportional scale back should not include rate class MBL.[118]

E. Summary

As explained in Main Brief, I&E's revenue allocation, customer charge, and scale back proposals are based on sound Commission ratemaking policies and precedent and should be adopted.

X. MISCELLANEOUS ISSUES

A. Reporting Requirements

The Company opposes I&E's recommendation that it provide updated schedules to the Commission reflecting actual capital expenditures, plant additions, and retirements for the FTY and FPFTY.[119] The Company states the information can already be found in the Annual Reports and quarterly updates while the rate case is pending.[120] As a threshold matter, I&E notes Citizens' is raising this point for the first time in Main Brief, thereby depriving I&E of its ability to provide an expert witness response on the factual basis for its contention. Therefore, the Commission should disregard Citizens' late-brought assertion that other filing requirements address I&E's recommendation. Nonetheless, I&E avers its recommendation aligns with the test year of the Company in a form consistent with the rate filing, providing an apples-to-apples comparison of what the Company is projecting and

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117 Citizens' Main Brief, p. 116.

118 I&E Main Brief, p. 65.

119 Citizens' Main Brief, pp. 116-117.

120 Citizens' Main Brief, p. 117.

what actually will be in the plant. Additionally, if Citizens' contends that its Annual Reports provide similar information, I&E avers it is therefore even less of a burden to repurpose this information into a form directly corresponding to a schedule provided in the rate filing.[121]

Additionally, the Company reiterates its position that it should not be required to provide reporting while rules and regulations regarding use of the FPFTY are pending.[122] As explained in I&E's Main Brief, current lack of detailed standardized rules and regulations regarding use of the FPFTY should support, rather than discourage, this sort of reporting requirement.[123] Indeed, many other utilities have agreed to the exact same reporting requirements under consideration.[124] Therefore, I&E continues to recommend the Company provide the reporting requirements as outlined in Main Brief.[125]

XI. CONCLUSION

For the reasons explained herein and in I&E's Main Brief, Citizens' has failed to bear its burden of proof with respect to each and every element of its proposed rate increase. The Company's proposal must be amended to reflect the necessary and appropriate adjustments proposed by the Bureau of Investigation & Enforcement fixed utility financial analyst and engineer witnesses. Therefore, the Bureau of Investigation & Enforcement respectfully

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121 Quarterly reports end upon close of a rate case proceeding, and therefore would not satisfy I&E's reporting recommendation. *See* 52 Pa. Code § 53.56.

122 Citizens' Main Brief, p. 117.

123 I&E Main Brief, pp. 71-72.

124 *See* I&E Main Brief, p. 71, fn. 242.

125 I&E Main Brief, pp. 69-70.

requests the Administrative Law Judges and the Commission to adopt its recommendations in this proceeding, which include adjustments and modifications as supported herein and in I&E's Main Brief, and as reflected in I&E's tables attached to I&E's Main Brief.

Respectfully submitted,

John M. Coogan
Prosecutor
PA Attorney I.D. No. 313920

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: January 22, 2020

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3008212
	:	
Citizens' Electric Company of Lewisburg, PA Supplement No. 132 to Tariff Electric – Pa. PUC No. 14	: : :	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Brief** dated January 22, 2020, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

Adeolu A. Bakare, Esq.
Matthew L. Garber, Esq.
Pamela C. Polacek, Esq.
McNees Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
abakare@mcneeslaw.com
mgarber@mcneeslaw.com
ppolacek@mcneeslaw.com
Counsel for Wellsboro Electric Company

Christy M. Appleby, Esq.
Darryl A. Lawrence, Esq.
Aron J. Beatty, Esq.
Santo G. Spataro, Esq.
Office of Consumer Advocate
Forum Place
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
cwv2019@paoca.org

Sharon Webb, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov

Brian Kalcic
Excel Consulting
225 South Meramec Avenue, Suite 720
St. Louis, MO 63105
excel.consulting@sbcglobal.net
Consultant for OSBA

John M. Coogan
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 313920